

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
FairPoint Communications, Inc.	)	WC Docket No. 08-71
	)	
Petition for Waiver of Section 54.301(e)(1)	)	
Of the Commission's Rules,	)	
47 C.F.R. §54.301(e)(1)	)	

**REPLY COMMENTS OF FAIRPOINT COMMUNICATIONS**

FairPoint Communications, Inc. ("FairPoint") hereby submits these reply comments on its Petition For Waiver To True-Up Local Switching Support.<sup>1</sup> FairPoint filed the Petition on behalf of six of its local exchange carrier ("LEC") subsidiaries operating in four study areas in Maine and Vermont: China Telephone Company, FairPoint Vermont, Inc., Northland Telephone Company of Maine, Inc., Sidney Telephone Company, Standish Telephone Company, and Maine Telephone Company (collectively the "FairPoint Companies").<sup>2</sup> FairPoint requested that the Commission waive the December 31, 2012 deadline for submitting true-up data to adjust Local Switching Support ("LSS") for calendar year 2011, which is required by Section 54.301(e)(1) of the Commission's Rules.

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<sup>1</sup> See *FairPoint Communications, Inc.; Petition for Waiver of Section 54.301(e)(1) of the Commission's Rules, 47 C.F.R. § 54.301(e)(1)*, Petition For Waiver To True-Up Local Switching Support, WC Docket No. 08-71 (filed Jan. 16, 2013) ("FairPoint Petition").

<sup>2</sup> The FairPoint Petition inadvertently referred to four FairPoint LECs when actually the requested relief is sought on behalf of six LECs serving four study areas: China Telephone Company serves one study area; FairPoint Vermont, Inc. serves a second study area; Northland Telephone Company of Maine, Inc. and Sidney Telephone Company together serve a third study area; and Standish Telephone Company and Maine Telephone Company together serve a fourth study area. Accordingly, FairPoint respectfully requests that the Petition be granted as to these six LECs.

For years prior to 2011, LSS was calculated based on an initial projection of each LEC's annual unseparated local switched revenue requirement. The initial projections were required to be subsequently trued up based on actual LEC data. Support then could be adjusted as appropriate. The true-up process required LECs to submit true-up data by December 31 of each year through 2012.

The December 31, 2012 true-up filing deadline was the first such deadline that the FairPoint Companies have missed, and it is the last true-up submission that will be required since LSS has been phased out for subsequent years. FairPoint explained in its Petition that changes in key personnel, both within FairPoint and at the consulting firm used by the company for calculating the FairPoint Companies' unseparated local switched revenue requirement, contributed to the company missing the December 31 deadline by a mere seven business days.<sup>3</sup> Upon notification by the Universal Service Administrative Company ("USAC") that the FairPoint Companies had missed the deadline, FairPoint promptly submitted the true-up data.<sup>4</sup>

Without a waiver to accept FairPoint's January 10, 2013 true-up submission as timely, the FairPoint Companies could be required to refund all of the LSS these LECs received in 2011, amounting to over \$1 million. Requiring the FairPoint Companies to refund all 2011 LSS is a harsh penalty that is grossly disproportionate to the error and it would cause significant harm to the FairPoint Companies and their subscribers because this support "represents a significant portion of the revenue on which the FairPoint Companies have relied to provide services in rural Maine and Vermont."<sup>5</sup> If the true-up data is accepted as timely filed through grant of the

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<sup>3</sup> See FairPoint Petition at 1, 2, and 4.

<sup>4</sup> See FairPoint Petition at 2 (USAC notified FairPoint on January 2, 2013 of the missed true-up filing and FairPoint submitted the true-up data for the six LECs on January 10, 2013).

<sup>5</sup> FairPoint Petition at 4.

requested waiver, FairPoint expects that the companies in three of the study areas will be required to refund a total of approximately \$47,000 to USAC and the company serving the fourth study area will receive a modest amount of additional support.<sup>6</sup> As demonstrated more fully in the FairPoint Petition, the public interest would be best served by a “waiver of the rules ... [so as] to avoid a substantial penalty to FairPoint and its operating LECs, which would adversely impact operations in the affected study areas and beyond.”<sup>7</sup>

No comments have been filed in response to the FairPoint Petition, and no party will be adversely affected by grant of the requested waiver. There is no reason for the Commission to delay grant of the relief requested herein. A waiver of the deadline in Section 54.301(e)(1) is appropriate to prevent undue hardship that would be caused by the loss of all of the FairPoint Companies’ LSS support received in 2011. A waiver will allow USAC to “perform the same calculation that it otherwise would have done, delayed by merely seven business days.”<sup>8</sup>

Respectfully submitted,

/s/

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March 11, 2013

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<sup>6</sup> See FairPoint Petition at 3.

<sup>7</sup> FairPoint Petition at 3.

<sup>8</sup> FairPoint Petition at 4.